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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,561	10/25/2001	Kazuhiko Yamashita	19036-37906	8725

7590 10/07/2003
Nate F Scapelli
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

EXAMINER

GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,561

Applicant(s)

YAMASHITA ET AL.

Examiner

Randy W. Gibson

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The use of what appear to be trademarks, namely AppleTalk, NetBIOS, NetBEUI, IPX/SPX, & TCP/IP, have been noted in this application; however, there is no "TM" superscript (for common-law trademarks) or "®" symbol (for marks registered with the PTO) accompanying the trade names. Clarification is required

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Claim Objections

2. Claims 7 and 15 are objected to because of the following informalities: the use of trade names in the claims which are not clearly defined in the written description. Since software may be updated, re-written, or changed at any time by issuing a new version, it is unclear what exactly is being claimed. In patent specifications, every element or ingredient of the product should be set forth in positive, exact, intelligible language, so that there will be no uncertainty as to what is meant. Arbitrary trademarks which are liable to mean different things at the pleasure of manufacturers do not constitute such language. See *Ex Parte Kattwinkle*, 12 USPQ 11 (Bd. App. 1931). If the trademark has a fixed and definite meaning, it constitutes sufficient identification unless some physical

or chemical characteristic of the article or material is involved in the invention. In that event, as also in those cases where the trademark has no fixed and definite meaning, identification by scientific or other explanatory language is necessary. See *In re Gebauer-Fuelnegg*, 121 F.2d 505, 50 USPQ 125 (CCPA 1941); and, *MPEP* § 608.01(v). Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobutsugu (U.S. # 4,658,919) in view of Tomokazu (JP 10-161880). Nobutsugu shows a combinational weighing apparatus which uses a local area network (LAN) to transmit commands to and from a central CPU controller to individual CPU controllers. Nobutsugu discloses the claimed invention except for the ability to reprogram the controllers by a remote user. Tomokazu discloses that it is known to reprogram a computer connected to a LAN from a remote computer. It would have been obvious to modify the device of Nobutsugu to allow it to be reprogrammed with updated software from a remote location such as the manufacturer, as suggested by Tomokazu, to allow

updated control software to be installed in a machine on-site in the factory with-out the need for a costly service call by a technician from the manufacture's location.

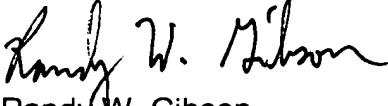
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gesuita et al disclose a combinational weigher with "internet capabilities", but applicant's priority date predates the filing date of Gesuita et al. Schwartz et al (Col. 21, lines 40-64) and Schurr (Col. 1, lines 57 to col. 2, lines 65) suggest installing data into a computerized scale from a remote location. Naito suggests using a remote computer to control a combinational weigher (Col. 15, line 26 to col. 17, line 8). Griffen and Dillon et al disclose calibrating and diagnosing microprocessor controlled load cells remotely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.


Randy W. Gibson
Primary Examiner
Art Unit 2841